

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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RONALD E. KEMP,

Plaintiff,

08-CV-0954 (LBS)(DCF)

-against-

ANSWER

LONG ISLAND RAILROAD,

Defendant.

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S I R S :

Defendant, The Long Island Rail Road Company ("LIRR"), sued herein as LONG ISLAND RAILROAD, by its attorney, MARK D. HOFFER, answering the Complaint of plaintiff, alleges upon information and belief:

1. Admits each and every allegation contained in paragraph "FIRST" of the Complaint.
2. Denies each and every allegation contained in paragraph "SECOND" of the complaint, except admits the defendant, Long Island Railroad (hereinafter "LIRR") is a public benefit corporation engaged in interstate commerce by rail and operates a railroad system and railroad yards within the jurisdiction of this Court and in various other states.
3. Denies each and every allegation contained in paragraph "THIRD" of the complaint, except admits that at all times hereinafter mentioned, the LIRR has employed the plaintiff as a Principal Buyer in its Procurement & Logistics Department.
4. Denies each and every allegation contained in paragraph "FOURTH" of the complaint, except admits that at all times hereinafter mentioned, the LIRR has an office facility located at 90-27 Sutphin Blvd., Jamaica, NY 11435 in furtherance of its business in interstate commerce or in work closely or substantially affecting the same.

5. Denies each and every allegation contained in paragraphs "FIFTH" and "SEVENTH" of the Complaint.

6. Denies each and every allegation contained in paragraph "SIXTH" of the Complaint and refers questions of law to the Court for determination.

**DEFENDANT, FURTHER ANSWERING AND FOR A FIRST,
SEPARATE AND COMPLETE DEFENSE TO ALL CAUSES OF ACTION,
IF ANY, ALLEGED IN THE COMPLAINT HEREIN, ALLEGES:**

6. Upon information and belief, that if the plaintiff was injured as is alleged in the complaint, he was so injured in whole or in part by reason of his own negligence and without any fault or any negligence on the part of the defendant, its agents, servants and/or employees, and the defendant did not violate any statute or statutes enacted for the safety of its employees.

**DEFENDANT, FURTHER ANSWERING AND FOR A SECOND,
SEPARATE AND COMPLETE DEFENSE TO ALL CAUSES OF ACTION,
IF ANY, ALLEGED IN THE COMPLAINT HEREIN, ALLEGES:**

7. Plaintiff has failed, in his Complaint, to mitigate his alleged damages.

WHEREFORE, defendant, THE LONG ISLAND RAIL ROAD COMPANY, demands judgment dismissing the complaint herein together with costs and disbursements of this action.

Dated: Jamaica, New York
February 25, 2008

MARK D. HOFFER, ESQ.

Attorney for Defendant

BY: 
CHRISTOPHER P. YODICE (CPY9723)

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TO: **IRA M. MAURER, ESQ.**
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